

A D D R E S S

T O T H E

O F F I C E R S

O F T H E

BRITISH ARMY, &c.

THE  
FIFTH  
VOLUME

OF THE  
HISTORY OF THE  
UNITED STATES

FROM 1789 TO 1861

BY  
J. P. K. B. S. C.

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THE  
FIFTH  
VOLUME

OF THE  
HISTORY OF THE  
UNITED STATES

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*Salmon*

AN  
ADDRESS  
TO THE  
OFFICERS  
OF THE  
BRITISH ARMY;

Containing a SKETCH of  
THE CASE  
OF

*Capt. Kenith Mackenzie,*

Who was lately tried by a Special Commission at Justice-Hall in the Old-Bailey, for the MURDER of KENITH MACKENZIE at Fort Morea, on the Coast of Africa.

WITH  
OBSERVATIONS

Which put this Case in a Point of View extremely interesting

TO THE  
Army in General,

BUT PARTICULARLY

To Governors, Commanders,  
and all Persons in foreign  
Military Employments.

By an OFFICER.

*Rebus angustis, animosus atque  
Fortis appare*—HOR.

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## ADVERTISEMENT.

THIS Address has been written in the utmost haste and expedition---If by it the Attention of the Public is attracted to so novel a Case, the Writer's Purpose is completely answered; because he thinks Relief to the unfortunate Object of it must then necessarily follow: and it will occasion a very important Branch of Society to reflect upon a Subject, in which, perhaps, they have not yet considered themselves at all interested.



30-6-04



# D E D I C A T I O N.

TO THE

Right Hon. Sir GEORGE HOWARD,

KNIGHT OF THE BATH,

Commander in Chief of His Majesty's Forces  
in Great Britain.

S I R,

HOWEVER well the most sacred Regard for public Justice, furthered by excellent Talents for the Distribution of it, may have fitted you for the Examination of Appeals from the most important Tribunals ; yet, I am fully assured, that a military Knowledge, founded on long and unremitted Experience, has still more peculiarly adapted a Mind open to the finest Impressions of Benevolence, to receive with Consideration and Regard, the mistaken Case of an unfortunate Officer.

The Decency of an Appeal to you, Sir, for your Intercession, in Behalf of Captain Mackenzie, with that high Power by whom the rigid Features of Justice may be softened, I will not presume to be at all questionable ;



ii DEDICATION.

questionable ; for as long as Human Nature shall be fallible, the Decisions of the wisest Ministers of Justice must be precarious ; and to correct the Errors into which the Infirmities of Nature may have led this mighty Arbitress of all sublunary Contention, is surely an Effort, not unworthy of a Reputation so exalted as Sir George Howard's.

But, Sir, those who are acquainted with you, hold your Character in just Celebrity for the Good-will they know you entertain towards your Fellow-Countrymen ; for the paternal Love they know you bear to the Officers of the British Army, who in their filial Impressions towards you, form a Reciprocation of Confidence and Esteem, the most flattering and useful to the Country, who have now to rejoice in so powerful a Support. But, to leave a Subject of unbounded Panegyric to the Pen whose Plumage it may so proudly gild, I shall content myself in assuring you with what Respect

I am, Sir,

Your most devoted and

Obedient humble Servant,

THE AUTHOR.

London,  
Jan. 1785.

( 8 )

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A D D R E S S  
TO THE  
O F F I C E R S  
OF THE  
BRITISH ARMY.

GENTLEMEN,

CAPTAIN Kenith Mackenzie was tried on the tenth of December last, at Justice Hall, in the Old Bailey, for the wilful murder of Kenith Murray Mackenzie, at Fort Morea, on the coast of Africa, by a special commission, before the Lord Mayor of London; Mr. Justice Willes; Mr. Justice Hotham; the Recorder of London; William Rose, Esq. Barrister at Law; and other his Majesty's Justices of Oyer and Terminer of the City of London, and Justices of gaol delivery of Newgate, holden for the City of London and County of Middlesex; and being convicted, received sentence of death.

If



If it be not a Cause of complaint, it is nevertheless a subject of the deepest concern, that the commanding officer of a fort, who puts to death a mutinous ruffian from his own judgment, not having a court martial to resort to, should be arraigned by a tribunal *merely* of municipal institution. If the laws of this country provide a more adequate jurisdiction for the trial of offences of the nature of that for which Captain Mackenzie stands convicted, can it be enough lamented that its provisions in this instance have not been enforced? and if they do not, what a miserable deficiency is here in that system of laws so gazed at by admiring nations as the utmost perfection of human wisdom! A deficiency, alas! in the dispensations of justice, the most fatal to the most useful subjects: a deficiency which, if the dark and unlettered Cadi would supply, surely then of the most disgraceful nature to the more benign regions of urbanity and freedom!

If *martial law* be wisely left to the construction of military judges, where should *martial necessity* meet with a more judicious and competent ascertainment? But if the court had been even of a mixed nature; if the veteran scarlet of the camp had joined the hoary purple of the bench



bench, in the tribunal before which this unfortunate man was arraigned, perhaps a necessity, indispensable in no less degree than that upon which Mr. Mackenzie has before acted, would not now have existed--that of supplicating royal clemency for the relief which justice has denied him. So bright a commixture of judicial colours would never have proved so inauspicious to the fate of a military commander beset by the most profligate banditti that ever disgraced a society of human beings.

The preposterousness of applying the rules of the common law, or the notion and habits of its sages, to the conduct of any military commander, is surely too glaring to escape the slightest degree of penetration. The true and most competent judges of martial necessity are, perhaps, those only who have witnessed the direful consequences of an inattention to its dictates or a relaxation in its rules. Education and habit must ever influence the judgments of men;---how then can a criminal be naturally or fairly tried upon any other system of laws than those which, from his particular situation in society, he must have made the constant rule of his action? Captain Mackenzie acted from the spirit of martial law, whose decisions, to be effectual,

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must be summary, rigid and decisive. Not having any prescribed rule or enacting letter for his conduct, he rationally concluded that this was a case in which discretion was to be his guide. Sedition had long been fermenting, and had now arrived to a most dangerous head---his life was certainly to fall a sacrifice to the success of a mutinous enterprize, and the lives of all uncorrupted men about him---the fort itself was to be lost, with all the ammunition, stores and provisions: knowing and feeling then the maxim\* which no commander should forget, *that his country is to be defended by all means*, Captain Mackenzie resorted to the most faithful of all human guides, reason and nature, the truth of whose dictates he had not the madness to dispute.

But, as His Majesty has power, by the act of the thirty-third of Henry the eighth, to appoint the court of special commission, before which this trial was had, it must be supposed he can include in it military judges, as well as those of the common law; and therefore, perhaps, the undue administration of this law is the only object of condemnation. Under this idea then, be it submitted, whether Captain Mackenzie, having been arraigned before a bench of judges

\* Maché.



judges of the common law, has been adequately judged?

The acts of military officers, in the course of things, cannot always find their justification under definitive rules, or municipal institutions; they are frequently driven for the protection of the civil branch of society to act without them; and when their commands have made it necessary for them to commit acts not justifiable under any precise rule of written law; how cruel and irrational is it to say that they must therefore be guilty of the offence laid to their charge, however high in the rank of crimes it may stand, however terrible in the degree of punishment it may attract!

Captain Mackenzie thus resorted to principles which only can guide commanders in such cases: he found himself justified by reason and nature in using means for defence of his life and command, but those means the ministers of justice have condemned upon ideas of common law.

The act of killing in self-defence, is considered by the common law, as a species of homicide founded on necessity; and in justifiable self-defence, an injured party, says the law,\* may  
repel

\* Foster, 273.



repel force by force in defence of his person, habitation, or property, against one, *who manifestly intends, or endeavours, by violence or surprize, to commit a known felony upon either.* The intention against the life of the Commander of Fort Morea, as well as the surprize with which the intention was to be effected, are too evident to be disputed. But how ineffectual is the provision which the law here makes in favour of life, if the marked object of injury and malice is to wait for an act of open and daring violence before the law engages to protect him in the consequences? The first overture of violence is suddenly to expel him from existence! And such is the depravity of some branches of human nature, that the strong instigations of malice, revenge, with the prospect of accumulating riches, territory, or power, easily break down the slight barrier which the law has raised against an offender, who, for such ends, deeply contrives against the life of another.

Yet, though the common law may here fail in necessary securities, is an officer, acting for the benefit of his country, to feel the effect of such delinquencies? Is the Commander of a British Fort and Garrison, for the *exemplary* punishment

ment of the desperate ringleader of a mutiny, to be tried upon such limited rules? It never can be said, that a subject in such distinctions and circumstances, should wait, for the most enormous of all offences against military order—that of open and personal violence, before he proceeded to chastisement. No! No possible construction of law could ever have enjoined Captain Mackenzie to have suffered every seditious machination in Fort Morea to have accomplished its fullest purpose before he had struck a preventive blow.

Military seditions are always desperate, and powerfully armed! If then, they are not attacked *prematurely*, how can they be combated *successfully*? Mutineers, like traitors, must be punished upon the earliest overt act; for the threat of a soldier to destroy his Commander, especially in a foreign Garrison, is very much of the same nature as the offence of the subject who contemplates the death of his sovereign--- They are both crimes of a public nature, and the killing of any military commander, who is like the Governor of a foreign settlement, the vice-regent of his Sovereign, must always be proportionably extensive in its ill effects.

In



In the idea of a mutiny is included that of a combination of soldiers against the life and command of their officer. For the service of his country, the military man assumes the command, which exposes him to seditious projects, and endangers the life which he could otherwise have safely enjoyed. If a branch of empire, then, is to be confounded with the destruction of such a subject---if the Sovereign has here more to complain of than in ordinary cases, the preventive means should certainly be more liberal ! And how are the seditious plans of a set of men, thorough-paced in every species of iniquity, and desperate in every villainous undertaking, to be effectually disconcerted but by the most rigorous treatment of the ringleader and projector ? When an influence so baneful as that of a mutiny shall have reached a *vital* part, the utter dissolution of the whole frame must inevitably follow : wisdom and necessity, therefore, condemn the *limb* to save the *body*. The avowed intention of destroying a commander must naturally be succeeded by the most speedy execution ; for in all mutinies many are corrupted : and the ringleaders find it adviseable to follow up their menaces, knowing that a discovery, which is always to be apprehended, would subject them to the same punishment as the

the



the bare threat. When the subjects are desperate, the governor must be rigid. A celebrated writer on the art of war,\* indeed, has told us, that the best, and the only effectual way of quelling mutiny and sedition in an army, is by punishing the ringleaders; but then, says he, it is to be done so neatly that they may have their reward before they have news that it is intended; and this is clearly that strong policy and good sense which must ever guide a good general; and, being neglected, no army can ever maintain its necessary health and vigour.

Where can we be more disappointed in the pursuit of truth than in trying measures founded on *political* expediency by the principles of *moral* actions? And do we not equally err in examining a measure founded on *martial* necessity, by rules calculated only for the government of *civil* society? Any resistance, therefore, which an officer may make to a conspiracy against his life and fortrefs by soldiers under his command, can never be fairly examined upon principles

\* Importa oltre alle cose dette ad un Capitano, si resce Sedizione o discordia tra' soldati, saperle con arte spegnere---Il miglior modo è castigare i cape de li errori; ma farlo in modo che tu li abbia prima oppressi che essi se ne sieno potuti accorgere Machiavelli dell' arte della Guerra lib. 6, page 429, Baretti's edit.

known to that law only which is the rule and guidance of civil life.

But if these considerations are complex or difficult, how must the improprieties already spoken of, increase upon the reflection that the rein is given up to men utterly unequal to the management of them---men, whose minds being generally uncultivated, can found but little claim to any degree of discriminating faculty? We know the pertinacity of British juries is in no instance so characteristically displayed as in cases of life. But however serviceable to the cause of justice this quality may in some instances prove, in others it is not less fatal. The expedients of the Commander of a Garrison of convicts on the coast of Africa, can be little understood by London tradesmen. From boasting so much of our trial by jury, we are apt to trust too much to the jurors. Those to whom their management is committed, perhaps sometimes think they can never act amiss by gliding down the tide of popular prejudice, in giving juries every credit. The truth is, we can seldom trust too much to their integrity, but their understandings, upon the various questions which come before them, certainly require the most cautious instruction. - Indeed, the constitutional propriety



ety of trying a military officer by a London jury, for an offence committed in his government of a foreign settlement, may admit of much question; such a description of men can with as little truth *be deemed his Peers*, as they can be supposed to *understand his case*, hence it may be fairly enquired, whether an officer in the service of his country, is not entitled to the same tender consideration of law, which is directed to the most obscure foreigner.---The provision of the law for a jury de medietate linguæ,\* is the comparative indulgence alluded to.---Some *military* weight should certainly be thrown into the scale of justice, whenever it is weighed upon the trial of British officer.

It must, however, be clearly perceived, that Captain Mackenzie, having been Governor and Commander of a Fort, he had both a *civil* and *military* superintendence to sustain. The act which he committed, was founded on *civil*, *political*, and *martial* necessity, for the preservation of himself---for the protection of

\* The ancient law was more attentive to these forms than modern courts seem to be---The jury de medietate linguæ is summoned where the person arraigned is an alien born---an attention to the interests of mankind at large, says the learned commentator of our laws, which no other nation in the world can boast. See Blackstone's Com. vol. 3.

his government---for the discipline and good order of the company under his command\*--- But to render this more apparent, let it be put to the test of a more minute account of the situation in which that officer stood, as collected from the trial.

\* Ma se tu lo paghi e non lo pimiſci, diventa in ogni modo insolente perchè ni diventi di poca ſtima dove chi capita, non può mantenere la dignità del ſuo grado, e a non la mantenendo ne ſèguita di neceſſita il tumulto e le diſcordie, ſhe ſono la rovina d'un Eſercito. Mac. dell' arte della Guerra, Lib. 6, page 429.---It is not enough ſays the ſame acute politician to contrive good orders unleſs they be ſtrictly obſerved, for ſeverity is no where ſo requiſite as in an army; wherefore, to keep ſoldiers in good order, *ſtrict and ſevere laws are to be made, and they are to be executed as ſtrictly.*--- Ma egli non baſta fare queſti ordini buoni ſe non ſi fanno con una grande ſeverità oſſervare perchè non è coſa che voglia tanta oſſervanza quanta ſi ricerca in uno eſercito. Pero le leggi a fortificazione di quello debbono eſſere aſpre e dure, e lo eſecutore duriffimo.---And the Romans, ſays this writer, puniſhed it with death to be abſent from the guard when it was a man's duty to be there---If a whole troop or company offended, they were puniſhed by decimation, every tenth man upon lot drawn was executed. So of the place aſſigned in Battle---Mac. dell' arte della Guerra, lib. 6, 422.

Captain



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*Captain MACKENZIE's*

## C A S E.

MR. KENITH MACKENZIE, who has been in the army from a very early period of life, in the beginning of the year 1782, went out in the *Leander*, Captain of an Independent Company, to attack some of the Dutch settlements on the coast of Africa.---This enterprise was successful against a Fort called Morea, within about five miles of Cape Coast, a settlement of the African Company; and within about seventeen miles of the nearest Dutch Fort.---The *Leander* returned, and Mr. Mackenzie was left Commander of the Independent Company, and also Commander of the captured Fort.---The Company consisted of about thirty men, some of whom were convicts from the Savoy, some from the hulks, and a few volunteers.---The convicts were in about the pro-

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portion

portion of three to one ; and a more desperate banditti could not be transported from their native soil.

Amongst the most abandoned of these convicts, was Kenith Murray Mackenzie, who had been formerly a drummer in the Guards---a very profligate man, and who, it was notoriously known, had been four times convicted for capital offences at the Old-Bailey. He, however, artfully claimed relationship with Captain Kenith Mackenzie, who upon his arrival in Africa, had determined to use all the means in his power to advance and reform him,---Captain Mackenzie became so partial to this man, as to raise him above more deserving and better soldiers,---he gave him the command of a small Fort in the neighbourhood, called Cormontine---he made him Serjeant, and appointed him to a sort of Adjutancy, to muster and exercise the men when he himself was absent.

This country, at that time, being at war with the Dutch, Captain Mackenzie, immediately on his arrival, began to act against the enemies of his country in those parts. Murray Mackenzie, however, regardless of the indulgence shewn him by his patron, soon after these appointments



appointments *deserted*. He was seized by the Governor of Cape Coast Castle, and put in irons: one of his comrades seeing him in this situation, asked him What, in the name of God, he had been about? upon which he replied "*By God! if Capt. Mackenzie does not see me-ripped, I will have his life.*"---He was discharged that evening.---

This desertion, however, did not deprive him of the little distinctions which the man, whose life he threatened, had shewn him; and he was sent again to Cormontine;---indeed his commander was not at that time aware of his excessive malignity.---The profligacy and ingratitude of the man were boundless; and, his favorite object in deserting being to reach the Mines, a Dutch fort, he was busily and constantly engaged in seducing others to make the same attempt. The readiness of his fellows for any desperate adventure, perhaps, anticipated much of his pains---*desertions* became very frequent; and Murray Mackenzie now committed *that offence a second time*, but was taken by force of a Corporal's guard out of a house in the Black Town adjacent to the fort.---There can be no doubt that, long before this second desertion, it was a fixed plan of Murray Mackenzie and his companions to murder their commander, and seize the fort; and as the inducement held out by

by Murray to the wretches in his scheme was that, upon their desertion, he could get them recommended to the Dutch fort, there can be as little doubt their intention was to deliver up this Fort Morea to the enemy. For about the time of this second desertion, Murray Mackenzie being with the convicts, and the Captain likewise being present, the convicts were heard to say “ *Now is the time, let us hustle him ;* ” “ *now is the time, let us do him.* ” The frequency of Murray’s transgressions here occasioned his confinement to the fort.

The miscreant now became more desperate than ever.---A conversation was over-heard between him and a Serjeant Andrews, in the Serjeant’s room, which turned upon the readiest means of murdering Captain Mackenzie. The one was heard to say “ *Damn him, I have a brace of pistols* ” “ *that will do for him : and if they will* ” “ *not do, says the other, I have got a sword.* ” Cooper, who overheard this, communicated it to Captain Mackenzie, whose eyes were now opened to the scenes of danger to which he had so long been exposed---Alarmed at his situation, and apprehensive every moment of a personal attack, he walked all night on the ramparts with a pistol in his hand : but Murray Mackenzie



kenzie had the next morning prevailed on the sentry to let him pass the fort, and *deserted a third time.*

The Captain, in the morning, being informed that he had hid himself in the Black Town, where he and others had often before been sheltered, fired upon that settlement; and the Blacks, in consequence, surrendered the culprit; at length to retribute for the long list of outrages he had committed.

The idea of ineffectual imprisonment could never for a moment have entered the head of a commander of the least experience, in Captain Mackenzie's situation. Half measures, when destruction on all sides seemed to threaten him, would have been weak and contemptible. The only place of confinement in Fort Morea was a place called the *Slave Hole*, where there was a common deal wooden door, and a common padlock, which the convicts who had been confined there could open with a nail, at pleasure.---It is true there was a stronger prison at the neighbouring settlement, Cape Coast; but it would have been far better for Captain Mackenzie not to have acted at all, than to have acted indecisively in this situation of affairs---The other convicts

victs were, perhaps, as desperate as this man ;--- It was not, therefore, by removing him that the danger was to be avoided, or the mutiny suppressed :---the terror and dismay with which the rest were to be struck upon the sudden execution of Murray, formed the great dependence of the commander :---that only could break the links of a chain so firmly united. The form and ceremony of a trial must likewise have given every opportunity to the conspirators to have pushed with effect their long-concerted schemes---each from the fear of punishment, would then have become violent ; and in vain might any restoration of good order have been expected from a measure so well calculated to have given mutiny effect. The villainy of this man, and others of the company, whom the Blacks had so frequently harboured, made it highly probable to Captain Mackenzie that they also had joined this dangerous conspiracy ; and such a conspiracy must surely then have been too powerful for him to have subdued. It was therefore necessary that he should now act with the most determined vigour and resolution, *as well to strike terror into the neighbouring Blacks, as to deter the conspirators in the fort from the further prosecution of their plans.* He accordingly fired the wretch,  
who



who was as unfit to live as to die, from the mouth of a cannon pointed towards the Black Town.

This example had the happy effect of putting an end to the mutiny; the fort was by this expedient saved; and the Commander of it, who must otherwise inevitably have been cut off, preserved to his country, his friends, and society. After this execution, communications from every side poured upon the ear of Captain Mackenzie, of the dangers to which he had been exposed, and of the narrow escape he had effected.

The Passions of men are very liable to be excited, and their resentments are generally directed against the slightest marks of invention or refinement in the destruction of our fellow-creatures, however execrable the character of a sufferer may be. It is, perhaps, because these qualities are the common characteristics of cruelty and torment, that the tide of prejudice may have run rather severely against Captain Mackenzie on this occasion: indeed, scarcely any circumstance attending the execution of a man, could be more likely to sway a British jury than that of firing a criminal from a cannon: but it

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would

would be strange, indeed, that the mere manner of the execution of a culprit like this, should weigh with more enlightened minds---it was clearly less painful, as it was more instantaneous than any other form of death human nature could devise---and it should be observed, that as no mode of death could be invented which would be attended with so little pain, so no manner of punishment could be inflicted which would be so *exemplary* and public, so striking and tremendous---considerations of the utmost moment to a man in Captain Mackenzie's forlorn and desperate condition. It might have had an effect of terror upon the Blacks, which every other sort of punishment would have been incapable of producing; for savages will dread a cannon, when they fear nothing else. Upon reflections like these, surely, all such expressions as " Asiatic cruelty," and " savage barbarity," so calculated to mislead the undistinguishing vulgar, if they have ever polluted the tongue of any thinking man, will be of course disused.

But for the proofs by which Captain Mackenzie's case has been supported:—Much evidence on the side of the prosecution went to prove the  
fact



fact of the execution ; therefore, to prevent the wading through so much unnecessary matter as that, and the numberless other superfluities with which trials of this nature abound, the most material parts of the evidence are here extracted.

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The EVIDENCE on BEHALF of the  
PROSECUTION against  
CAPTAIN MACKENZIE.

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JOHN JONES

Was the first witness called on the side of the prosecution, whose numberless prevarications and contradictions it will be needless here to state, or observe upon, since the learned judge, in summing to the jury, said, "he should, (and " did) wholly omit his evidence; for the reason that it was excepted to in several particulars."

JOHN MORTIMER

Belonged to Captain Mackenzie's Company.---This witness tells the story of the execution of Murray Mackenzie, in terms as disadvantageous to the Captain, as can be well used:



used : in his cross-examination, by Mr. Adam, to the question, "do you know why Murray Mackenzie was kept a prisoner at large?" He answered, "No, Sir, only as I *heard*, and that will not do." He seemed to have become very conscious since his return from Africa, in the sort of evidence that was necessary to affect a man's life. The anxious caution which he employs to throw a veil over the offences of Murray, is observable in every word he utters.

He states, however, That Captain Mackenzie, a day or two after Murray was shot, came to them in the yard, and said, "Well, my men, if I had not done this that I have done, you and all of us would have been dead long enough before this."

He swears that Brooks, who was an old man, the centinel that suffered Murray to escape, had 1500 lashes for this offence.---Perhaps no man could exist after receiving half the number in any country; but in those hot climates scarcely any surgeon would deny that a fifteenth part of that number would produce a mortification in the parts.

The

The mind of this man had unquestionably been prejudiced against Captain Mackenzie; “ for (says he) Captain Mackenzie broke our “ serjeants and corporals, and made these ser- “ jeants and corporals (alluding to Murray “ and others) over our heads; I had never “ (says he) done any thing in my life—that was “ very hard.---I was only a private.”

Again, Capt. Mackenzie stated upon his trial, that this witness came to him in Newgate, and told him, *May I be damned---may God damn me if I don't hang you, unless you give me one hundred pounds.*

### JOB COOPER,

Upon being asked, Whether he had given any information to Captain Mackenzie of any transactions, or any plan formed by Mackenzie and the other convicts? said, “ I did, sir, in the “ garden I heard it; it was a couple of days be- “ fore this affair (the execution of Murray) hap- “ pened.---I was coming out of the garden---it “ was a very hot day---I laid myself down on a “ mat---I was very sick and poorly, and I heard “ Murray Mackenzie coming out of his room- “ door and say, *Now is the time, let us do him “ out and out.*”——That he was then talking to



to Serjeant Andrews-- That by this expression they meant killing---That he was very uneasy about it, and he thought it his duty to tell the Captain.

On being asked, Whether Murray Mackenzie had sent his property to the Dutch fort?---He said he saw him send a bundle of clothes out of the town by black men---That he heard several threatening words amongst the convicts, but he could not recollect them----threatening words (says this witness) " That they could do us out " and out if we said any thing, or any thing " of that--which means, from his own explanation, " to any one that offended them."---That when the witness told the Captain, he told him as if it applied to himself, (the Captain)---as if they meant to destroy him.---That he said to the Captain, " Sir, I hope you will send us " away, for I should be very loth to have any " misfortune happen among us." That the fort would have been in danger, had this man and others deserted, had it been an enemy's fort; but it was peaceable times, and they were united one among another.

PHILIP

## PHILIP BROOKS.

This man was the sentry who let Murray out of the fort when he was prisoner, and for which he says, he received 1500 lashes---a punishment, upon which we need not make any additional observation, except it be---that not a syllable is said in the course of the whole trial, of any illness or indisposition which his punishment occasioned; although it was inflicted in a climate, where, as it has been already remarked, it is difficult to preserve any inflamed part for a few hours only from mortification---this man too is between fifty and sixty.

That he let Murray Mackenzie out to speak to a black man---to get him half a gallon of brandy- -That he never returned till he was brought back.

---That he followed Murray Mackenzie after he had run away, and left his firelock with another man, saying, Murray has run away---he could not find him---That Murray went into the Black Town, and there he concealed himself.

That he heard the convicts say, who were in a cluster, "Now is the time, let us hustle him; " now is the time, let us do him"---That this  
passed



passed three weeks or a month before Murray was shot; yet that he (without being able to assign any reason for his conduct) did not tell Captain Mackenzie of this till about a month after the man's execution.

Being asked whether, when he pursued the deceased, his firelock was not loaded?---He answered No! it was not: if it had, said he, "I cannot swear whether I should not have shot him or not; but I would have shot very near him if I could---I should have thought myself justified in so doing."

---To the question; and you had a right to shoot at him as a deserter? --YES:

---That Murray Mackenzie was amongst those who said "Let us hustle him?"

Cooper, the only unimpeachable witness of the three examined, and admitted on the side of the prosecution, substantiates Mr. Mackenzie's defence in every particular---Mortimer had been disappointed abroad, and "hardly treated," as he says in his evidence, "by not being made a Serjeant---he had been more grievously disappointed since his arrival, by not being able to

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make

make his own terms with Captain Mackenzie--- Brooks had so highly recommended his character to the Captain by his faithful retention of secrets, that from him Mackenzie could not expect any conduct that was not actuated by the purest principle---*The man who had concealed a Plan to murder him, would take care to do him justice as a witness upon his trial.*

Upon the evidence of these wretches, then, Mortimer and Brooks, let it be observed and felt by every one who is not insensible to the sufferings of Humanity, has the ill-fated Mackenzie been convicted! The former of these men, may it not be forgotten, came to him and threatened him, fettered as he was in the gloomy cell of a prison, *that he would hang him, if he did not give him one hundred pounds:* the latter concealed from him a most iniquitous and long-agitated plan to murder him.



## E V I D E N C E

F O R

## CAPTAIN MACKENZIE.

---

D A N I E L M O N R O \*

---WAS at Morea after the man was executed---it might be three, four, or five months  
 ---Cooper, the witness, came to him; and, upon entering into conversation about Murray's execution--- Monroe said, "do you think he deserved it?---Yes, deserved it, yes he did (said Cooper) and it is a pity he should have lived so long as he has done; for if he had not been made an example of, what would have become of his Majesty's fort, and all that was in it---Monroe said, "Well, Cooper, what did you hear?---Said Cooper, I was lying down at the Serjeant's door upon a mat, and

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" I heard

\* This witness was then a trader to the coast of Africa.

“ I heard Serjeant Murray and Serjeant An-  
 “ drews talking; one said Damn him, I have a  
 “ brace of pistols that will do for him----And  
 “ if they will not do for him (says the other) I  
 “ have got a sword---That Cooper told Captain  
 “ Mackenzie, and that he, out of bodily fear,  
 “ walked all night on the ramparts with a pistol  
 “ in his hand.”-----

Cooper, on being called up again, denied his  
 having spoke about pistols in his account to  
 Monro of the conversation of the two Serjeants,  
 according to the best of his recollection---But  
 on the question being put, whether he meant  
 to say that he remembered every thing that was  
 said---answered---“ My memory is really so  
 “ bad, I have had the fever in my head; what  
 “ I told him then was truth; but it is so long  
 “ since, that I cannot recollect, as my memory  
 “ is so bad, but I could have told him.”

Mr. Monro, upon being questioned again---  
 swore the words passed which he had mentioned,  
 upon the oath that he had taken before God--  
 Thus every imputation which Cooper had laid  
 upon the credit of Mr. Monro in the account  
 of what passed between them, was effectually  
 removed.

Mr.



Mr. Monro upon being questioned as to the state of the slave-hole, the only prison or place of confinement in Fort Morea---proved that it had a common deal wooden door, and a common padlock; any of the convicts that were there could open it with a nail---he had seen them do it; and said there was no other place of confinement,---

### SERJEANT COUPLAND

Was asked what was the opinion of the Garrison with respect to the conduct of Captain Mackenzie?---He said, "they all approved of *" Captain Mackenzie's conduct in shooting the " deceased."*

### THOMAS MAPLES,

That Murray Mackenzie had said in his room, that he could destroy the Captain---this was two or three days before the execution---That Murray then wanted every man to desert out of the Garrison---That he has frequently said he would destroy Captain Mackenzie if he could conveniently.

" That he, Murray Mackenzie, had made  
 " propositions to go to the Dutch Settlements,  
 " that

" that he had taken all his cloaths out of his  
 " chest, and given them to the black man that  
 " came in and out of the fort---he was to take  
 " them to a Dutch Settlement---That he had  
 " heard him apply to Andrews, who is dead,  
 " and many a time he has desired the witness  
 " to acquaint the men to let them know that he  
 " wished to go, and he would do something  
 " for them there."

### GENERAL TOWNSEND.

Has known Mr. Mackenzie eight or nine  
 months before he embarked for Africa:---his  
 character whilst under his command was very  
 unexceptionable,---

That Captain Mackenzie's Company chiefly  
 consisted of convicts, owing to the necessity of  
 the service, and also another Company---the  
 ship in which they embarked remained in the  
 river for some time; and the Captain made him  
 constant reports of the manner of his command,  
 which were very much to his satisfaction.---  
 That he has every reason to think he behaved  
 himself very well on board:---it was a very  
 desperate crew as ever any man had to deal  
 with.---

C A P-



## CAPTAIN LANE.

Has known Captain Mackenzie six or eight months---he was under his command at Chatham Barracks;---he was sent down by General Townsend's order to him to be under his command, where he remained for six months---four months of that time, he (Captain Lane) established that Company, during which time Captain Mackenzie behaved perfectly well and satisfactory to him; and doing his duty as an officer.---

---That he was repeatedly on board Capt. Mackenzie's ship and saw his conduct there:---  
 " he sent him powder and ball, to keep peace  
 " on board the ship."

Upon being questioned by the court as to the crew---He said it was the opinion of every one of the officers that there never was a more desperate set of men---the witness often mentioned *that*, to General Townsend:---" that it was his  
 " opinion that they would not let Captain  
 " Mackenzie go to Africa."

As to the different desertions of Murray Mackenzie, as well as other mutinous expressions besides those which have been here noticed;  
 ---they

---they were fully proved by almost every witness who was called on either side.

### MR. JUSTICE WILLES

Now charged the jury, observing "there  
" would be two points for their consideration ;  
" how far those orders of Captain Mackenzie  
" for the execution could either be justified or  
" excused---that he could find but two grounds  
" upon which the prisoner could put his defence---either

*" That this was an execution agreeable to  
" martial law, and therefore that he was  
" justified---or*

*" That it was an execution necessary for  
" his own defence, and for the protection of  
" his Majesty's Fort and Garrison that was  
" there.*

" As to the first part of the prisoner's defence,  
" he did not see it possible to justify his conduct by martial law. I do not know," said the learned judge, " that the life of any one  
" can be taken away by martial law except in  
" the heat of action, but by a court martial  
" being held on him; it is said here (says he)  
" that



" that there was no opportunity of holding a  
 " court-martial, and that the single officer was  
 " the prisoner; but it is also proved, if you  
 " should doubt, that the slaves hole was not  
 " sufficiently secure; yet there was a sufficient  
 " prison at Cape Coast, where he might be se-  
 " cured;---he might have been afterwards  
 " tried and sent home in irons in order to be  
 " duly tried according to martial law; but even  
 " supposing you should think (continued he)  
 " that such a power was lodged in this single  
 " officer---that he had a power himself to sen-  
 " tence him; yet in this power he has not ob-  
 " served one legal step that he ought to have  
 " taken; the man was never summoned, nor  
 " suffered to make any defence; he was im-  
 " mediately tied to the mouth of a cannon,  
 " which is not to be warranted by any existing  
 " law in this country---this was a power (says  
 " the learned judge) which he exercised with-  
 " out permitting the man to be heard.---I  
 " should have thought (said he) if a court-  
 " martial duly constituted had assumed such a  
 " power, it could not be justified;---for court-  
 " martials, though their power is greater than  
 " other courts, they never condemn a person  
 " unheard, therefore he cannot justify himself  
 " by the martial law, because he has not ob-

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" served

“ served one single requisite necessary to justify  
 “ him---there was no court-martial ; there was  
 “ a prison where he might have been kept ;  
 “ therefore with respect to that part of the  
 “ conduct of the prisoner (says the learned  
 “ judge) it deserves a severe condemnation:---  
 “ The other part of his defence has more pro-  
 “ bability in it---and that is---that this act of  
 “ his was necessary *for his self-defence, and for*  
 “ *the protection of his person, and the safeguard*  
 “ *of the Garrison* ; if you think that is true,  
 “ it may in some degree justify the act itself :  
 “ his situation is this---a most desperate crew  
 “ he certainly had---his Garrison consisted of  
 “ twenty-one, and at the time of the execution  
 “ it consisted of more ;---his crew consisted of  
 “ sixty desperate convicts, and five freemen  
 “ and volunteers ; and in the account you have  
 “ from General Townsend, and Captain Lane,  
 “ they both agree there never was a more des-  
 “ perate set of fellows ; and that it was even  
 “ thought the prisoner could never be able to  
 “ complete the voyage to Africa:---that there  
 “ was a combination amongst the men to do  
 “ the prisoner, or to do him out and out, is  
 “ proved by three witnesses ; but then (says he)  
 “ the communication of this fact to the pri-  
 “ soner is only proved by Job Cooper, and he  
 “ says



“ says he did give information to Captain  
 “ Mackenzie that Andrews and Murray had  
 “ said they would do him out and out; and  
 “ if you believe what Monro says---that evi-  
 “ dence is carried a little further. He says  
 “ that Murray Mackenzie should say to An-  
 “ drews, *damn him, I have a brace of pistols*  
 “ *that shall do him*, and that the other said, *I*  
 “ *have a sword*: this was a kind of alarm  
 “ which might have an effect on a man of cou-  
 “ rage and constancy, when he saw an inten-  
 “ tion to take away his life. I will put a case  
 “ (continued the learned judge) which might  
 “ have happened something like the present:---  
 “ Supposing this Captain sailing to the coast of  
 “ Africa, had heard of an insurrection among  
 “ the slaves, and one of them more desperate  
 “ than the rest, had threatened to take away  
 “ his life: if he had sent for the man up, and if  
 “ upon deck he had taken a pistol and shot him,  
 “ perhaps it would have been thought self-de-  
 “ fence, therefore that is the only ground upon  
 “ which you can acquit the prisoner. The act it-  
 “ self has the appearance of a very severe punish-  
 “ ment, but it is perhaps the most easy pu-  
 “ nishment of death that is possible, as the  
 “ mortal frame is dissolved in a moment.---I  
 “ have given (concluded he) my opinion in

“ point of law, that this is an act which can-  
 “ not possibly be justified by martial law ; and  
 “ that the only excuse of the prisoner is, whe-  
 “ ther you think the act he did was absolutely  
 “ necessary for his self-defence--If you find him  
 “ guilty, I am afraid you must find him guilty  
 “ of the murder ; you cannot find him guilty  
 “ of a less crime---Gentlemen, you see there  
 “ were two witnesses proved declarations com-  
 “ municated to the Captain afterwards, that  
 “ they intended to take away his life, but these  
 “ were not communicated previous to the exe-  
 “ cution of Murray Mackenzie.”

The jury retired for near two hours, and returned with a verdict,

GUILTY OF THE WILFUL MURDER.

*But in consideration of the desperate crew the Captain had to command, we wish to recommend him to his Majesty's mercy.*

The peculiar benignity of our system of criminal laws has put the defence of the prisoner in the care of the judge ; but as a prisoner too is allowed advocates to manage and support his defence, there can be no apology due to a minister of justice, however learned or respectable he



he be, from any one who steps forward to the community, in additional aid of a character of which the law has already been so tender ; and as the administration of justice is public, there can be as little question of the right of publicly examining the proceedings of her courts. After the affirmation of these tenets, let it be enquired whether, though there is no precise clause in the articles of war to warrant the measures of Captain Mackenzie, yet was he not justified by the spirit of that code, in executing a felon who had no less than four times raised his hand at the bar of criminal justice for offences of the highest civil magnitude !---who had no less than three times deserted from the service which had received him after the perpetration of these crimes !---who had deeply and uninterruptedly contemplated the life of his commander and patron, with the alienation of a settlement of his king and country, from whom he had received such repeated indulgencies !---does the spirit of that system by which the military of a civilized nation is governed, tolerate offences so highly injurious to her service ? Does she tamely neglect that discipline and good order which only can preserve her body from ruin and decay ?

The

The tendency to immediate and fatal danger of longer enduring the life of a soldier who is mutinous *in action*, is simply, the justification which martial Law avows for his immediate and instantaneous execution---Practicable as the idea may seem of conveying him to prison, the most bigoted foe to the exertions of military justice, could never deem such a measure adviseable ; for to withdraw a guard of brave men from the actual service of their country, in the very heat of action, in order to conduct the wretch to the sacred forms of trial, who selects such a moment to give extent to his profligacy, is furnishing the worst of offenders with the ceremonies of justice at a price too exorbitant to have entered into the comprehension of any system of laws whatever ; and how vague must such ceremonies, exercised upon such an occasion, appear, when we reflect upon the flagrancy and notoriety of the act upon which they are called forth ? Yet thus, alas ! the wisest and most sacred forms, too scrupulously adhered to, may be made productive of mischiefs the most formidable to society ; and that which was intended to place justice upon the most respectable footing, may serve to become its ridicule and burlesque. But if mutiny in the field be an offence which may endanger the lives of a whole  
army,



army, the peculiar situation of Captain Mackenzie is another instance in which the ill consequences of the same offence are positively as rapid, and proportionably as diffusive.

Policy requires that such a mutiny as that officer crushed, should be treated in a manner equally summary, and decisive; for at Morea nothing less was intended than the utter extirpation of the whole society of men with which the offender had acted---whom Mackenzie commanded; as well as the Fort which his country had put under his protection. Massacre, rapacity, and every shocking evil in the system of a clumsy and abandoned usurper, must from the extreme profligacy of Murray, and his adherents, have been exercised in the most unbounded extent upon the success of their seditious projects.

If this Commander had been in action with the enemy, and the criminal had waited till that moment, to carry his plan into execution, he could have proposed to himself nothing more complete than the death of his officer, the seizure or the treacherous surrender of the Fort; indeed, the accomplishment of the scheme for which he suffered. The mutiny of a soldier then, in the field of action, could not proportionably have a more dangerous tendency, than  
that

that which was instigated in the Garrison of Morea. The aim in either case is equally at the immediate destruction or overthrow of the whole body; so that, alike surrounded by foes, the Commander in either case, is justified in *immediate*, and *exemplary* punishment. Imprisonment with a view to future punishment, would be certainly ineffectual, for *where is the avail of example, after every inconvenience is incurred, which it is its only purpose to prevent?*

Martial law has no other object in the severity of its punishments than discipline and good order. No system of laws ever punished offenders upon a principle of resentment for the wrongs they had done; but to deter others from committing the same offences; and if the position of the writer, who has said that every punishment prevents twenty, be true, the policy Captain Mackenzie evinced by making an example of the most profligate of the Banditti by which he was surrounded, cannot be sufficiently applauded.

An instance may be here recurred to, fresh in the memory of every man, and which for its striking application to the present case ought  
not



not to be passed.\* The *wager*, Captain Cheap, one of the Commodore Anson's Squadron in his expedition to the South Seas having wrecked, the crew saved themselves upon an uninhabited island.

\* The ingenious Author of the account of Lord Anson's Voyages, gives the following state of this affair: "This Cozens (says that writer) had involved himself in brawls with most of the officers who had adhered to the Captain's authority, and had even treated the Captain himself with great abuse and insolence. As his turbulence and brutality grew every day more and more intolerable, it was not in the least doubted, but there were some violent measures in agitation, in which Cozens was engaged as the ringleader; for which reason the Captain and those about him constantly kept themselves on their guard. One day the Purser having by the Captain's order stopped the allowance of a fellow who would not work, Cozens, though the man did not complain to him, intermeddled in the affair with great bitterness, and grossly insulted the Purser, who was delivering out Provisions just by the Captain's tent, and was himself sufficiently violent: the Purser enraged by his scurrility, and perhaps piqued by former quarrels, cried out a *Mutiny!* adding, *the Dog has Pistols*, and then himself fired a pistol at Cozens, which however missed him: but the Captain on this outcry and the report of the pistol, rushed out of his Tent, and not doubting but it had been fired by Cozens, as the Commencement of a Mutiny, he immediately shot him in the head without farther deliberation; and though he did not kill him on the spot, yet the wound proved mortal, and he died about fourteen days after.

However, (says the Author of this account) this incident, though sufficiently displeasing to the People, did yet, for a considerable time, awe them to their duty, and render them more submissive to the Captain's authority. See Anson's Voyages, Vol. I page 194—A more circumstantial state of this business is given by Messrs. Bulkeley and Cummins, in a Diary of the Disasters of the *Wager's* Crew, commencing from her loss: the feuds and animosities amongst the officers and men which Cozens's conduct very much forwarded, is there minutely traced—It appears that the life of Mr. Cozens might have been saved by the exertions of the Surgeon, with whom Cozens had quarrelled—he first refused his assistance to extract the ball, but having relented, and being willing to attend the poor man, Captain Cheap forbade him—

G

Hunger

Hunger and other hardships soon rendered them utterly ungovernable---A party of the seamen who had deserted, had laid a train of gunpowder to the Captain's tent for the purpose of blowing him up, which being discovered, the mischief was prevented.---This mutiny however, was much forwarded by a midshipman of the name of Cozens, who had appeared the foremost in all the refractory proceedings of the crew. Amongst other persons he had quarrelled with the surgeon and purser ;--it was not in the least doubted but there were some violent measures in agitation, in which Cozens was engaged as the ringleader, for which reason the Captain and those about him constantly kept themselves on their guard---at length, upon some impertinent interference on the part of Cozens, as to the Purser's duty, their quarrel was renewed---The Purser upon observing that Cozens was armed, and concluding that the quarrel which he had then picked with him was intended as a prelude to some mutinous and desperate effort, discharged a pistol at him, which however missed. ---Captain Cheap hearing the report in his tent, immediately burst forth, and having made up his mind that Cozens had begun his mischief, and that the pistol was fired by him, instantly,  
and



and without the least enquiry, shot him in the head---Cozens died about fourteen days after.

Mr. Cozens had never been convicted of any criminal offence ; he was an officer of a character altogether unimpeached, but by this mutiny ; yet the expediency of Captain Cheap's conduct was not to be questioned even in the eye of the law, for he was never called to an account for this act. No man could say he should have withheld his rigour, till Mr. Cozens had committed upon him some act of personal violence.---

The strong similitude between the cases of Captain Cheap and Mackenzie, must be obvious to every one :---as far as the situations concur, Captain Mackenzie's conduct stands justified upon a very powerful precedent---where they vary, the difference is so much in his favour, as to give great additional strength to his justification.

What is there in the case of this gentleman so materially aggravating as to excite his condemnation, when if, as it has been suggested, “ he had been sailing to the coast of Africa, and “ upon an insurrection amongst the slaves, one

“ of them more desperate than the rest, had  
 “ threatened to take away his life---upon sending  
 “ for the man upon deck, he had taken a pistol  
 “ and shot him?”---what is there in this case to  
 support the justification of self-defence, that  
 should not entitle Capt. Mackenzie to the same  
 excuse?---with equal force at least may such an  
 apology be made by Capt. Mackenzie---though  
 an open insurrection is not so much to be dreaded  
 as the treacherous assassination so clearly intended  
 to have dispatched him.

But the true excuse in these cases, on the  
 ground of self-defence, is founded on the law  
 of nature, and is not, nor ever can be, super-  
 seded by any law of society. For before civil  
 societies were formed (and such a state of things  
 may be easily conceived) though it is difficult to  
 fix the period of their origin, for mutual defence  
 and preservation, the right of self-defence re-  
 sided in individuals;---it could not reside else-  
 where; and since in cases of necessity, indivi-  
 duals incorporated into society, cannot resort  
 for protection to the law of the society, that  
 law with great propriety and strict justice con-  
 siders them as still, in that instance, under the  
 protection of the law of nature.\*

\* Foster, 273.



We are instinctively informed that no action in consequence of the principle of self-defence can be murderous; and that it is lawful to kill the man who means to kill us.\* Shall it then be said that a man is to wait for justice from the formal decisions of a court, when the sword of violence is ready to put an end to his life?† Where our safety depends on the immediate crush of ruffian fury, nature furnishes arms, which if the law refuses, what does it do less than put every man who falls into the hands of ruffians upon the melancholy alternative of perishing either by their swords, or its own decisions?‡

If

\* *Insidiatorem jure interfici posse. Cic pro milone.* The word “*insidiator*” is particularly applicable to Mr. Mackenzie’s case, conveying the idea of plotting against the life of another.

† *Silent enim leges inter arma, nec se expectari jubent, cum ei qui expectare velit, antè injusta pœna, luenda sit, quam justa repetenda. Cic pro Milone.* The well known and much admired passage immediately preceding this, speaks the very language of Mr. Mackenzie’s defence on natural law. *Est enim judices, non scripta, sed nata lex; quam non dedimus, accepimus, legimus, verum ex naturâ ipsa arripimus, hausimus, expressimus; ad quam non docti, sed facti; non instituti, sed imbuti sumus: ut si vita nostra in aliquas insidias, si in vim, si intela aut latronum, aut inimicorum incidisset; omnia honesta ratio esset expediendæ salutis. In the same oration.*

‡ *Sin hoc et ratio doctis, et necessitas barbaris, et mos gentibus et feris natura ipsa præscripsit, ut omnem semper vim, quacunque ope possent, à corpore, à capite, a vitâ suâ propulsarent; non potestis hoc facinus improbum*

If this reasoning holds in general cases, how much more strongly does it apply against characters, who have forfeited freedom and life, perhaps for the bloodshed, at least for depredations they have committed on the Societies they have lived in ! Are not these then strong distinctions in favour of Captain Mackenzie ? The law is certainly less mindful for the protection of those who have spent their lives in a course of offences against her, than she ought to be for the safety of men who have lived in the strictest observance of her dictates.

Captain Mackenzie, at the hazard of his life, has done a service to his country.---The traitor, whom he executed, met with the fate he deserved : but is Captain Mackenzie to undergo a punishment he does not deserve ?---a punishment for doing a meritorious, at least, an unavoidable piece of justice ?---The object of the one was to commit---that of the other to suppress violence.---As to resentment or malice,

*probum judicare, quin simul judicetis, omnibus qui in Latrones inciderint, aut illorum telis, aut vestris sententiis esse pereundum. Cic. pro Milo.* The whole of this passage could not have been more applicable to Mackenzie's case if it had been written purposely for him. This beautiful oration, indeed, was made upon a similar occasion ; Milo, a General, killed Clodius who meant to kill him ; so that it incessantly turns upon self-defence, as justified by reason, necessity, custom and instinct.

Captain



Captain Mackenzie bore no more to this flagrant offender, than every patriot bears to every ruffian---nay! he persisted, in spite of his iniquity, to advance and serve him.

Tully, in a similar case, asks---To a traitor and a robber, what death can be deemed unjust? \* But such questions should be cautiously repeated at this day; for the tenderness of modern Britain may take disgust at the austerities of ancient Rome: yet the most eminent of the countrymen of this accomplished orator and profound philosopher, thought it no crime to put to death the abandoned of their fellow-citizens †.

The variety of lights in which Captain Mackenzie's defence is capable of being placed, is no inconsiderable argument of the strength of it ---As a *citizen*, how is his situation to be con-

\* Infidiatori vero et latroni quæ potest inferri injusta nex. Cic. pro Milone.

† Neque enim posset aut Ahala ille Servilius, aut P. Nasica aut L. Opimius, aut C. Marius, aut me Consule, senatus non nefarius haberi si *sceleratos cives interfici nefas esset*. Cic. pro Milone. It is here impossible to avoid the thoughts and expressions of this orator, whose oration is perhaps the best defence for Captain Mackenzie that can any where be read.

sidered?

sidered?---He banishes himself to render those men serviceable, whom the laws had banished; who had been respited upon condition of their atoning by their future labours in the service of society, for the outrages they had committed against her:---now, these malefactors break the condition of their respite by a continuation of their misdeeds! ---Captain Mackenzie, on the other hand, as it is proved, receives the approbation of his superior officers for the vigilance and good conduct he uses in his command:---at length being established in his transportation with these felons in a scorching and infectious clime, his destruction is meditated; but just as the wretches are ready to cut the thread of *his life*, he becomes, as it were, the executioner of the law, and takes *the life of a ringleader of miscreants* for the breach of the condition upon which he held it.

But is the life of a British officer to be put in competition with that of a felon whom he conducts to transportation? \*---Is he to withhold his defence till the savage who has slipped his

\* That of a private Soldier, it seems should not; for not long ago—two of a party of Convicts going down the river, under the conduct of the Sheriffs and a military guard endeavoured to escape—one was wounded by a Soldier before he could quit the vessel; and the other was shot at, and mortally wounded in the water.



neck from the toils of justice, shall present the dagger to his heart? Shall the country, for whose sake he becomes a voluntary exile into climates scarcely tolerative of human existence, persecute the man, whose patriotic hand has destroyed the viper preying upon her tormented bowels? Heaven forbid it! But if it must be so, farewell to that ardour of British officers, whose active spirits establish settlements for their country wherever they head!---Though the force of human enterprise may conquer the combined dangers of a destructive climate---a savage country---a murderous crew---yet call the *discipline*, which such a service *there* demands, *guilt*—expose the honour—the life of the officer, on his return, to the perverted calls of justice---and, for British officers, convict garrisons may command themselves.

T H E E N D.





